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in the Supreme Court of the United States

OCTOBER TERM, 1984

RAMIRO ARANGO,

Appellant,

vs.

THE FLORIDA BAR,

Appellee.

On Appeal from the Supreme Court of Florida

MOTION TO DISMISS OR AFFIRM

CATHERINE L. DICKSON
Assistant Staff Counsel
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

MARY ELLEN BATEMAN
3722 Lifford Circle
Tallahassee, Florida 32308
(904) 893-4693

Counsel for Appellee

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INTRODUCTION

The Florida Supreme Court concluded that Ramiro Arango had engaged in unauthorized practice of law in Florida and permanently enjoined Mr. Arango from engaging in such conduct. Finding Mr. Arango guilty of indirect criminal contempt, the Florida Supreme Court

sentenced Mr. Arango to 120 days imprisonment, but suspended 90 days of that term. *The Florida Bar v. Arango*,____ So.2d ____ (Fla. 1984); (J.S. App. 17,22.)

Mr. Arango seeks review in this Court based upon his claims that (1) the existence in Florida of dual legal forums to regulate unauthorized practice of law violates "federal principles of due process and equal protection"; (2) the appointed referee "breached the federal principles of due process" during the proceedings; and (3) Article XVI of the Integration Rule is "unconstitutionally vague." (J.S. at 1,2,10)

It should be noted at the outset that no federal question, issue or argument was presented by Mr. Arango to the appointed referee or to the Florida Supreme Court during their review of the report of the referee. It was only after the Supreme Court of Florida's order was issued that Mr. Arango attempted to object to the proceedings on federal grounds in his Motion For Rehearing. The Florida Supreme Court denied Mr. Arango's Motion For Rehearing without expressly passing on his federal arguments.

As we demonstrate below, this Court lacks jurisdiction to consider any of Mr. Arango's claims, as the federal questions sought to be reviewed were not timely or properly raised and were not expressly passed on by the Florida Supreme Court.

Even if Mr. Arango had raised his contentions in a timely manner, their lack of merit and their frivolous nature would deem them too unsubstantial to invoke this Court's review.

STATEMENT OF THE CASE

A. Enforcement of Unauthorized Practice Rules in Florida

The Florida Supreme Court has created an integrated bar to which all attorneys must belong in order to practice. The rules creating and governing The Florida Bar are included in the Integration Rule of The Florida Bar which was adopted by the Supreme Court of Florida.

Article XVI of the Integration Rule contains the provisions regarding enforcement of unauthorized practice of law restrictions. Under this article The Florida Bar as an official arm of the Florida Supreme Court is charged with the duty of considering, investigating, and seeking the prohibition of matters pertaining to the unauthorized practice of law and the prosecution of alleged offenders. (J.S. App. 26.)

The procedure under the rule provides for a petition to be filed by the Bar with the Supreme Court setting forth the alleged facts constituting the unauthorized practice of law. The Court then issues its order to show cause and appoints a referee who is a circuit (trial) judge in the area in which the respondent resides. It is the duty of the referee to try the case and make a written report to the Supreme Court as to his findings of fact, conclusions of law and recommendations for final disposition of the case.

After the referee has filed his report either party may file objections to the report in the Supreme Court of Florida. In addition, if the objector desires, he may file a brief in support of his objections. Responsive briefs are permitted.

When confronted with a case of apparent unauthorized practice, the Bar may seek an injunction, it may bring

charges of indirect criminal contempt or it may seek both remedies.

If charges of indirect criminal contempt are brought several additional procedural safeguards are provided by the Integration Rule including the appointment of counsel if respondent is insolvent, a standard of proof which requires the Bar to prove guilt beyond a reasonable doubt, and the opportunity, if found guilty, to present evidence of mitigating circumstances.

The punishment for an indirect criminal contempt under Article XVI is "by fine, not to exceed $2,500, imprisonment of up to five months, or both." (J.S. App.35)

In addition, under §454.23, Florida Statutes (1979) it is a first degree misdemeanor for "any person not licensed or otherwise authorized by the Supreme Court" to practice law or hold himself out to the public as qualified to practice law. The statute also makes it unlawful for any person to willfully pretend to be qualified or authorized to act as a lawyer in Florida or to use any name, title, addition or description implying that he is qualified or recognized by law as qualified to act as a lawyer. (J.S. App.25)

The penalty for violation of the statute is imprisonment for up to one year and a fine of $1,000. §§775.082 and 775.083, Fla. Stat. (1979).

A prosecution under this section is handled by the local, elected State Attorney and not the Florida Bar.

B. Proceeding Before The Referee

The litigation began when The Florida Bar filed a Petition Against Unauthorized Practice of Law in the

Florida Supreme Court seeking a permanent injunction, a finding of indirect criminal contempt, an assessment of costs, and such other relief as the court deemed appropriate against Mr. Arango. (App. 1a)

Subsequently, on July 12, 1982, the Court appointed Circuit Court Judge Robert P. Kaye as referee and authorized him to hold hearings, make findings of fact, and to report his findings to the Court. Judge Kaye held a preliminary hearing, disposed of pre-trial motions, permitted discovery, and conducted a final hearing. The final hearing was protracted and occurred on three separate dates—December 1, 1982, December 16, 1982 and December 29, 1982. Both The Florida Bar and Mr. Arango called a number of witnesses and introduced documentary evidence. On April 12, 1983, the referee executed his recommended order which contained findings of fact and recommendations of law and forwarded it to the Florida Supreme Court.

C. Proceedings in the Supreme Court of Florida

On September 20, 1983, the Florida Supreme Court handed down an order which granted the civil injunction originally sought by The Florida Bar by entering a permanent injunction against unauthorized practice of law by Mr. Arango. The September 20, 1983 order also requested the referee to clarify certain issues of fact and recommendations of law regarding a finding of indirect criminal contempt against Mr. Arango. (App. 10a) On September 30, 1983 the referee responded by readopting the findings of fact contained in his original report and by recommending that Mr. Arango be sanctioned pursuant to Article XVI of the Integration Rule by a fine of $2,500 and by imprisonment of five months.

Thereafter, on January 4, 1984, the Clerk of the Court advised Mr. Arango's attorney by letter as follows, "If you wish to contest any of the findings of the referee, even though *technically your request is late*, you may still do so." (emphasis supplied)

The case was then briefed in the Supreme Court of Florida where Mr. Arango objected to the referee's recommendations arguing that the findings of fact were not supported by sufficient competent evidence. In addition, Mr. Arango protested the recommended sentence calling it excessive and claiming to have been prevented from presenting evidence in mitigation.

The Supreme Court of Florida, in its order of October 15, 1984, upheld the referee's factual findings and conclusions of law and expressly rejected Mr. Arango's contention that he was prevented from presenting evidence in mitigation, finding that "the record shows that respondent voluntarily waived the sentencing proceeding in open court to which he was entitled and at which such evidence could have been presented." (J.S. App. 17,22)

As no federal questions were raised by Mr. Arango before the referee or Florida Supreme Court, no federal questions were passed on by the Court.

On November 8, 1984, Mr. Arango filed his Motion for Rehearing, Clarification, New Trial, Revise and/or Amend its Final Order Dated October 25, 1984, with Incorporated Memorandum of Law and his Motion for Stay of Execution. In the Motion for Rehearing, Clarification, et al., Mr. Arango set forth for the first time federal grounds as a basis for the objections.

On January 21, 1985, the Court entered its order

denying rehearing and granting the Motion for Stay of Execution. In addition, the Court gave Mr. Arango credit against the sentence imposed by its October 25, 1984 order for time served pursuant to the sentence imposed by the Circuit Court for the Eleventh Judicial Circuit of Florida in case number 82-19035 for violation of §454.23 Florida Statutes (J.S. App. 24)

D. Prosecution Pursuant to §454.23 Florida Statutes

Subsequent to the filing of the petition in the Florida Supreme Court, Mr. Arango was charged by information with Unauthorized Practice of Law in violation of §454.23 Florida Statutes for acts other than those acts alleged in the Bar's petition. He was tried and found guilty by a jury and sentenced to 364 days in county jail.

THE QUESTIONS PRESENTED FOR REVIEW WERE NOT TIMELY OR PROPERLY RAISED AND WERE NOT EXPRESSLY PASSED ON BY THE STATE COURT. ACCORDINGLY, THE APPEAL IS NOT WITHIN THIS COURT'S JURISDICTION.

It has long been established that appellate jurisdiction does not vest in this Court under 28 U.S.C. 1257(2) unless a federal question was properly raised and decided in the state court below. *See Illinois v. Gates*, 462 U.S. 213 (1983); *Cardinale v. Louisiana*, 394 U.S. 437, 438 (1968).

The proper method of raising the federal question is dependent upon the particular state practice. See *Michel v. State of Louisiana*, 350 U.S. 91, 93 (1955); *Parker v. Illinois*, 333 U.S. 571, 574-575 (1948).

In Florida, arguments raised for the first time on motion for rehearing may not be considered by the court. See *Sarmiento v. State*, 371 So.2d 1047 (1979) *approved* 397 So.2d 643 (1981).

Mr. Arango raised no federal claims during the hearing before the referee or in the Florida Supreme Court during its review of the referee's findings. It was only after the Florida Supreme Court issued its order that Mr. Arango filed a Motion For Rehearing and included in that motion, for the first time, questions which are arguably federal in nature. Accordingly, Mr. Arango did not properly raise a federal question in accordance with Florida state practice.

As a result, no federal question was decided by the Florida Supreme Court. Florida Rule of Appellate Procedure 9.330 requires that a motion for rehearing "shall state with particularity the points of law or fact which the court has *overlooked* or *misapprehended*. The motion shall

not reargue the merits of the court's order." (emphasis supplied)

The arguments made by Mr. Arango in his motion for rehearing were outside the scope of Rule 9.330 since he had not previously raised the questions before the court or the referee. In accordance with state practice, the Florida Supreme Court denied Mr. Arango's motion without expressly passing on the federal questions raised in it.

As no federal question was timely or properly raised by Mr. Arango and no federal question was passed on by the Florida Supreme Court, this Court is not vested with jurisdiction under 28 U.S.C. 1257(2) to consider this appeal.

THE APPEAL DOES NOT PRESENT A SUBSTANTIAL FEDERAL QUESTION. . . .

I. THE DOUBLE JEOPARDY CLAUSE OF THE UNITED STATES CONSTITUTION PROHIBITS PLACING PERSONS TWICE IN JEOPARDY FOR THE SAME OFFENSE. SINCE DIFFERENT OFFENSES UNDERLIE APPELLANT'S CONVICTION UNDER §454.23, FLORIDA STATUTES AND HIS INDIRECT CRIMINAL CONTEMPT OF THE FLORIDA SUPREME COURT, APPELLANT'S "DUAL FORUM/DOUBLE JEOPARDY" CLAIM IS WITHOUT MERIT AND FAILS TO POSE A SUBSTANTIAL QUESTION.

Mr. Arango claims he was subjected to double jeopardy as a result of being prosecuted by the State of Florida and The Florida Bar "simultaneously to correct the same conduct"; i.e. the Unauthorized Practice of Law. (J.S. 1)

A brief review of the principle of double jeopardy and a close reading of the Bar's petition and the information filed by the state conclusively refutes the claim.

The Florida Bar's Petition Against Unauthorized Practice of Law against Mr. Arango was filed on May 13, 1982. The acts of unauthorized practice of law charged in the petition took place between *1977 and January 1982.* (App. 1a) (emphasis supplied)

The information filed against Mr. Arango by the State of Florida in the criminal prosecution was filed on August 25, 1982. The acts of unauthorized practice of law charged in the information took place between *May 11, 1982 and August 5, 1982.* (App. 15a) (emphasis supplied)

Accordingly, the Supreme Court of Florida and the State of Florida prosecuted Mr. Arango for distinct and different instances of unauthorized practice of law.

The constitutional prohibition against double jeopardy encompasses three separate guarantees: (1) it protects against the second prosecution for the *same offense* after acquittal; (2) it protects against the second prosecution for the *same offense* after conviction; and (3) it protects against multiple punishments for the *same offense*. See *North Carolina v. Pierce*, 395 U.S. 711, 717 (1969); *Illinois v. Vitalli*, 447 U.S. 410, 415 (1980). (emphasis supplied).

However, the violation of a particular proscribed act on more than one occasion, does not invoke the protection of the double jeopardy clause.[1]

Mr. Arango was not prosecuted or punished for the "same offense." Mr. Arango was prosecuted by two separate state entities having jurisdiction to regulate unauthorized practice of law, for separate instances of unauthorized practice occuring on different dates and on different occasions.

The mere fact that the separate violations fall under the general category of unauthorized practice of law in no way deems such violations the "same offense" for purposes of the Double Jeopardy Clause.

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[1] See e.g. *United States v. Coachman*, 752 F.2d 685 (D.C. Cir. 1985) where the court affirmed the conviction of witnesses twice held in criminal contempt, first when they refused to testify during a grand jury investigation and again when they refused to testify at a trial emanating therefrom. The court held that the witnesses could be held in contempt for each separate refusal without violating principles of double jeopardy since each refusal constituted a separate instance of contempt.

Since different offenses underlie Mr. Arango's conviction pursuant to §454.23 Florida Statutes and his indirect criminal contempt of the Florida Supreme Court, his "dual forum/double jeopardy" claim is without merit and fails to pose a substantial federal question.

THE APPELLANT'S ARGUMENT THAT HE DID NOT RECEIVE PROCEDURAL DUE PROCESS IS BELIED BY THE RECORD AND PRESENTS NO BASIS FOR REQUIRING THIS COURT'S EXERCISE OF JURISDICTION.

Procedural due process under the United States Constitution mandates "that a person may not incur the loss of liberty for an offense without notice and a meaningful opportunity to defend." See *Jackson v. Virginia*, 443 U.S. 307, 314 (1979) and cases cited therein. Further, an accused may not be criminally convicted except or proof beyond a reasonable doubt. *See In Re Winship*, 397 U.S. 358, 364 (1970).

Mr. Arango claims he was unconstitutionally denied due process since the referee failed to follow procedures set out in Article XVI of the Integration Rule of The Florida Bar. Mr. Arango makes no reference to the record to attempt to support his contention.

A review of the record clearly shows that the referee and the Florida Supreme Court afforded Mr. Arango with all the procedural protections provided for by Article XVI of the Integration Rule and that the procedural due process requirements of the United States Constitution were met.

Appellant was given notice that he was being charged with the unauthorized practice of law. (App. 2a.) There-

after, a referee was appointed to conduct hearings at which Mr. Arango was given the opportunity to present evidence, confront witnesses and justify his activities. (App. 22a) In compliance with Article XVI, Rule III (B)(1)(g), Mr. Arango was accorded a presumption of innocence and The Florida Bar established Appellant's guilt beyond a reasonable doubt.

In particular, Mr. Arango claims he was not given the opportunity, provided for in Florida Bar Integration Rule Article XVI, Rule III (B)(1)(j), to present evidence of mitigating circumstances at the sentencing hearing.

The claim is without merit. The Florida Supreme Court made a specific finding of fact that Mr. Arango made a voluntary waiver of his opportunity to appear before the referee for sentencing. (J.S. App. 22) Said finding of fact is presumptively correct and should be given due deference by this Court.

Mr. Arango's other specific due process claims are frivolous and require only brief discussion. First, Mr. Arango claims the appointment of a "private prosecutor" to prosecute the Bar's case against him violated procedural due process. The appointment of bar counsel to handle the case for the Bar is provided for specifically under Florida Bar Integration Rule, Article XVI, Rule III (A)(3)(b) wherein the Board of Governors of the Bar is required to appoint bar counsel to prosecute the case before the referee. Compliance with this rule by the Bar did not violate procedural due process requirements.

Secondly, Mr. Arango complains that the judgment of guilty did not recite the facts constituting the contempt as required by Florida Bar Integration Rule III (B)(1)(i). The referee, in his report of March 23, 1983 and his amended

supplemental report of March 8, 1984 clearly sets out the findings of fact which formed the basis of his order finding Mr. Arango guilty of indirect criminal contempt. Mr. Arango's unsubstantiated claim that he was not accorded procedural due process by the referee is belied by the record and presents no basis for requiring this court's exercise of jurisdiction.

FLORIDA BAR INTEGRATION RULE GIVES FAIR WARNING OF THE CONDUCT IT PROHIBITS. APPELLANT POSES NO SUBSTANTIAL FEDERAL QUESTION BY CHALLENGING THE RULE AS UNCONSTITUTIONALLY VAGUE.

A statute will be struck down as unconstitutionally vague where it forbids or requires the doing of an act in terms so uncertain that men of common intelligence must necessarily guess at its meaning and differ as to its application. *See Roberts v. United States Jaycees*, 468 U.S. ____, 104 S. Ct. 3244 (1984) and cases cited therein.

Further, when the vagueness challenge does not involve First Amendment freedoms, such challenge must be examined in light of all the facts in the case at hand. *United States v. Mazurie* 419 U.S. 544, 550 (1975); *United States v. National Dairy Product Corporation*, 372 U.S. 29 (1963).

Article II, Section 2 of the Integration Rule provides in pertinent part "no person shall engage in any way in the practice of law in this state unless such person is an active member of The Florida Bar in good standing...." (App. ____)

The Integration Rule is clear and unambiguous in describing the conduct which is proscribed. In addition the Florida Supreme Court has given clear notice in its decisions

as to what specific acts constitute unauthorized practice of law.

Mr. Arango claims that Article XVI of The Florida Bar Integration Rule is unconstitutionally vague since it gives "jail terms for indirect criminal contempt without ascertainable standards of guilt." (J.S. 1,2) The fair warning requirement of the Due Process Clause prohibits the States from holding an individual "criminally responsible for conduct which he could not reasonably understand to be proscribed." *United States v. Harriss*, 347 U.S. 612 (1954); see *Wainright v. Stone*, 414 U.S. 21 (1973).

Mr. Arango is a former attorney, licensed to practice law in Cuba. Certainly, Mr. Arango is cognizant of what constitutes the practice of law and cannot complain that he must "necessarily guess" at what conduct is proscribed by the Integration Rule.

The Integration Rule gave Mr. Arango fair warning of the conduct it prohibits. Accordingly, Mr. Arango poses no substantial federal question by challenging the Integration Rule as unconstitutionally vague.

CONCLUSION

For the foregoing reasons the appeal should be dismissed or the decision of the Florida Supreme Court summarily affirmed.

Respectfully submitted,

CATHERINE L. DICKSON
Assistant Staff Counsel
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

Mary Ellen Bateman
3722 Lifford Circle
Tallahassee, Florida 32308
(904) 893-4693

Counsel for Appellee

APPENDIX A

in the Supreme Court of Florida

THE FLORIDA BAR,

Petitioner,

v. CASE NO.

RAMIRO ARANGO,

Respondent.

_____/

PETITION AGAINST UNAUTHORIZED PRACTICE OF LAW

The Florida Bar, petitioner, charges Ramiro Arango, respondent, with engaging in the unauthorized practice of law in the State of Florida, and in support thereof, alleges:

I

This petition is filed pursuant to Article XVI of the Integration Rule of The Florida Bar.

II

This Court has original and exclusive jurisdiction to

prohibit the unauthorized practice of law pursuant to Article V, Section 15, of the Florida Constitution.

III

Petitioner is charged with the duty and responsibility of initiating and prosecuting, in this Court, proceedings against the unauthorized practice of law.

IV

Article II, Section 2, of the Integration Rule of The Florida Bar provides in part that "No person shall engage in any way in the practice of law in this state unless such person is an active member of The Florida Bar in good standing. . . ."

V

The Board of Governors of The Florida Bar has authorized the institution of this proceeding against respondent.

VI

Respondent, at all times material herein, was not and is not a member of The Florida Bar, and was not and is not therefore licensed to engage in the practice of law in the State of Florida.

VII

Respondent has engaged in the unauthorized practice of law in Dade County, Florida by one or more of the following acts:

1. Respondent's office is located at 154 Giralda Avenue,

Coral Gables. The building at that address is owned by Gara Office, Inc., a company which is in turn owned by respondent.

2. The building has approximately seven internal offices, some of which respondent has made available to members of The Florida Bar. Respondent has provided both secretarial and library services to certain of these attorneys. Some, but not necessarily all of the attorneys who have utilized respondent's office space are: Rollo Karkeet, Blas E. Padrino, Leonardo P. Mendez, John W. Parente, and Jose R. Sierra.

3. On June 10, 1981, 154 Giralda Avenue was found to have a sign on the door which identified the building as GARA OFFICES and which further stated LAW OFFICES and listed the names of Mary Louise Dennis and Jerome Rosenblatt who are both members of The Florida Bar. Inside, the office had a large reception area and a law library. Respondent has the largest individual office on the premises, and prominently displays several diplomas on his wall including one from the University of Florida special program for former Cuban lawyers. Respondent has taken the Florida Bar Examination a number of times, but so far has not been admitted to the practice of law by this Court.

4. Respondent is well known along the Latin community in the Miami area. In recent years he has appeared on Miami area television and on at least one occasion was identified by words on the screen as "Dr. Ramiro Arango, Abogado". Note: *Abogado* in Spanish means Attorney. In addition, he has been heard on a Miami area radio talk show during which he gave advice to callers regarding various subjects, including immigration matters. See Petition Against Unauthorized Practice of Law, *The Florida Bar v.*

Ramiro Arango; Petition denied by the Florida Supreme Court, July 9, 1980, case number 59,166.

5. In March, 1977, attorney Blas E. Padrino occupied an office at 154 Giralda Avenue and established a relationship for the practice of law with the Law Office of Rollo E. Karkeet. Although Mr. Karkeet lived in Hernando County, Florida, he maintained an address for practicing law at 154 Giralda Avenue. Respondent ostensibly served as Mr. Karkeet's office manager or clerk.

6. During the tenure of Mr. Padrino's relationship with the Law Office of Rollo E. Karkeet, from March 1977 to March 1978, respondent referred approximately 200 clients to Mr. Padrino for legal services.

7. Respondent prepared and filed a complaint in small claims court, but affixed Blas Padrino's name to the instrument without Padrino's knowledge or consent.

8. Respondent impersonated attorney Padrino during a telephone call respondent conducted with an insurance adjuster.

9. Respondent demanded access to Mr. Padrino's files, including client files who had employed Padrino apart from Padrino's relationship with Karkeet/respondent.

10. Mr. Padrino provided legal services in a civil automobile accident case for a client referred to him by respondent. Padrino discovered that the client, on respondent's advice, had falsely testified during a prior deposition that she had not had any previous automobile accidents.

11. Elisa R. Tamayo, a citizen of the U.S., employed

respondent to assist Jose H. Tamayo, her husband, a citizen of Columbia, with the issuance of an immigrant visa. Ms. Tamayo paid respondent a retainer for his services. Elisa Tamayo reasonably believed respondent to be a licensed Florida attorney based on his demeanor and office arrangements. Accordingly, she and her husband reposed trust and confidence in respondent to their detriment since Jose Tamayo has been deported, thus damaging the Tamayos.

12. In October 1979, respondent prepared a contract for the sale of four (4) shares of Maraca, Inc. from Mr. Moises Marcel Ouizman, the seller, to Ms. Camille Castro, the buyer. The contract states that the price of the shares was $166,667.00. The contract also memorialized the agreement between the parties that Ms. Castro would manage a restaurant/night club owned by Maraca, Inc.

13. Subsequent to this agreement, Ms. Castro and her business partner, Magdelina Sera, moved from Las Vegas, Nevada, to Miami. After arriving in Miami, Ms. Castro and Ms. Sera purchased a residence. Respondent prepared the contract for sale to transfer the residence from the seller to the buyer.

14. Because of certain representations of the respondent, Ms. Castro returned her shares of Maraca, Inc. to respondent and did not ever manage the restaurant/night club even though she had relocated from Las Vegas to Miami. Ms. Castro has been injured by the services rendered by respondent, which services she would not have accepted had she not been under the reasonable, but mistaken, belief that respondent was a member of The Florida Bar.

15. Respondent prepared a contract for the purchase of real property, identified as the Sensation Night Club, 3622

Coral Way, Miami, between Maca Corporation, seller, and Moises Marcel Ouizman and/or Assignees, buyer. The contract, with a purchase price of $950,000, is one page long. Later, Moises Marcel Ouizman assigned his contract rights to purchase the Sensation to Maraca Corporation. Maraca subsequently purchased the property and closed on October 29, 1979. Respondent represented the buyer/assignee throughout this transaction. By March of 1980, the buyer had experienced problems with the roof at the premises.

16. Although the contract called for the seller to give the buyer a roof guarantee, no written guarantee was tendered and respondent did not insist on receiving one prior to closing. The buyer ultimately closed the sale without the written guarantee. This resulted in injury to the buyer due to roofing problems which later arose. The April 1980 and May 1980 mortgage payments were not made by Maraca Corporation and the mortgagee filed a foreclosure action in June 1980.

17. In or about January 1982, Daisy Alvarez visited respondent's office at 154 Giralda Avenue. She employed respondent to prepare the Articles of Incorporation for Anyway Realty Corporation. Ms. Alvarez paid respondent $100.00 to prepare and file the articles. Respondent performed this legal service.

VIII

The aforementioned activities of respondent violate the letter and spirit of this Court's decisions in *The Florida Bar v. Town,* 174 So.2d 395 (Fl. 1965), *The Florida Bar v. Fuentes,* 190 So.2d 748 (Fl. 1966), *State ex rel The Florida Bar v. Sperry,* 140 So.2d 587 (Fl. 1962), judgment vacated on other grounds, 373 U.S. 379 (1963).

WHEREFORE, petitioner prays as follows:

1. That this Court issue its order directed to respondent, commanding him to show cause, if any there be, why he should not be enjoined by this Court for the unauthorized practice of law in the State of Florida, and why he should not be held in indirect criminal contempt of this Court.

2. That this Court issue a permanent injunction preventing and restraining respondent from engaging in the acts complained of and from otherwise engaging in the practice of law in the State of Florida.

3. That this Court find respondent in indirect criminal contempt of this Court.

4. That the costs of this proceeding be assessed against respondent.

5. That this Court grant such other and further relief as it may deem proper.

Respectfully submitted,

THE FLORIDA BAR

Samuel S. Smith, President
Eighth Floor
1111 Lincoln Road Mall
Miami Beach, Florida 33139
(305) 673-1100

John F. Harkness, Jr.
Executive Director
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

Ronald R. Richmond, Chairman
Standing Committee on
Unauthorized Practice of Law
Post Office Box 786
New Port Richey, Florida 33552
(813) 849-6149

Anita F. Dahlquist
UPL Counsel
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

H. Glenn Boggs, Bar Counsel
1391 Timberlane Road
Tallahassee, Florida 32312
(904) 386-2250

By: S/Ronald R. Richmond
Ronald R. Richmond

State of Florida
County of

Before me, the undersigned authority, duly authorized to administer oaths, personally appeared Ronald R. Richmond, who, after first being duly sworn, upon oath, says that the allegations of the foregoing Petition Against Unauthorized Practice of Law are true to the best of his information and belief.

S/Ronald R. Richmond
Ronald R. Richmond

Sworn to and subscribed before me this 13th day of May, 1982.

S/

Notary Public

My Commission Expires:

APPENDIX B

in the Supreme Court of Florida

TUESDAY, SEPTEMBER 20, 1983

No. 62,075

THE FLORIDA BAR, Complainant,

vs.

RAMIRO ARANGO, Respondent.

ORDER

This cause is before us pursuant to The Florida Bar Integration Rule, article XVI. The Florida Bar petitioned this Court to enjoin respondent from the unauthorized practice of law. The referee appointed by this Court to take evidence and to make findings of fact and conclusions of law found that respondent was engaged in the unauthorized practice of law and recommended that he be permanently enjoined from the unauthorized practice of law. We accept the referee's report and recommendation as to the civil remedy sought.

Additionally, The Florida Bar seeks to have penalties

for indirect criminal contempt imposed against respondent. The referee's report does not adequately address the issues raised by the Bar and is therefore insufficient in its present form to support the imposition of such penalties.

Accordingly, respondent, Ramiro Arango, is herewith permanently enjoined from the unauthorized practice of law and the report is returned to the referee for clarification of findings of fact and specific recommendations pursuant to The Florida Bar Integration Rule, article XVI, III B, as to the issue of indirect criminal contempt.

It is so ordered.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

C
cc: Hon. Robert P. Kaye, Judge
R. Alan Hale, Esquire
H. Glenn Boggs, Esquire
Catherine L. Dickson, Esquire
James P. Hahn, Esquire

APPENDIX C

January 4, 1984

Mr. R. Alan Hale, Esquire
901 N.W. 8th Avenue
Fort Lauderdale, Florida 33311

Re: The Florida Bar vs. Ramiro Arango
Case No. 62,075

Dear Mr. Hale:

On October 11, 1983, pursuant to your request, I mailed you a copy of the referee's recommendation in this matter. If you wish to contest any of the findings of the referee, even though technically your request is late, you may still do so.

Your objections and brief in support thereof should be filed by January 24, 1984.

Most cordially,

Sid J. White
Clerk Supreme Court

SJW:dec

cc: Stanley A. Spring, Esquire
James P. Hahn, Esquire
Catherine L. Dickson, Esquire
H. Glenn Boggs, Esquire

APPENDIX D

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA. IN AND FOR DADE COUNTY

SPRING Term, 1982

THE STATE OF FLORIDA	INFORMATION FOR
vs.	I. WITNESS ACCEPTING BRIBE 914.14(1)(2) Fel.
HUMBERTO MARANON	II. TAMPERING WITH
and	WITNESS
RAMIRO ARANGO	III. UNAUTHORIZED PRACTICE OF LAW (B) Def.

IN THE NAME AND BY AUTHORITY OF THE STATE OF FLORIDA

I, MICHAEL RAMAGE, Assistant State Attorney of the Eleventh Judicial Circuit of Florida, on the authority of JANET RENO, State Attorney, prosecuting for the State of Florida, in the County of Dade, under oath, information makes that HUMBERTO MARANON, a witness in a proceeding, to-wit: the criminal prosecution of ENRIQUE FERNANDEZ under Dade County Circuit Court case number 82-12166, as instituted by information of JANET RENO, duly constituted State Attorney of the Eleventh

Judicial Circuit in and for Dade County, Florida; and RAMIRO ARANGO did between May 11, 1982, and August 5, 1982, in the County and State aforesaid, unlawfully solicit, request, accept or agree to accept money as inducement to withhold any testimony, information or thing, in violation of 914.14(1) Florida Statutes, contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

MR:sjr
8/25/82
CIRCUIT COURT DIRECT FILE

82-19035,19083
J/Korvick

COUNT II

And I, MICHAEL RAMAGE, Assistant State Attorney of the Eleventh Judicial Circuit of Florida, on the authority of JANET RENO, State Attorney, prosecuting for the State of Florida, in the County of Dade, under oath, further information makes that, HUMBERTO MARANON and RAMIRO ARANGO, between the 11th day of May, 1982, and the 5th day of August, 1982, in the County and State aforesaid, knowing that a criminal trial or an official proceeding, to-wit: the criminal prosecution and trial of Enrique Fernandez, Dade County Court case number 82-12166, institute by information of JANET RENO, State Attorney of the Eleventh Judicial Circuit; is or was pending or knowing that such is or was about to be instituted and knowing that HUMBERTO MARANON is or was to be a witness in the said criminal trial or official proceeding, did

unlawfully endeavor or attempt to induce or otherwise cause HUMBERTO MARANON to withhold any testimony, information, document or thing by the use of force, deception, threat or offer of pecuniary benefit, in violation of 918.14(1)(2) Florida Statutes, contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

COUNT III

And I, MICHAEL RAMAGE, Assistant State Attorney of the Eleventh Judicial Circuit of Florida, on the authority of JANET RENO, State Attorney, prosecuting for the State of Florida, in the County of Dade, under oath, further information makes that, RAMIRO ARANGO, between the 11th day of May, 1982, and the 5th day of August, 1982, in the County and State aforesaid, without being licensed or otherwise authorized to practice law by the Supreme Court of Florida, did practice law, or assume or hold himself out to the public as qualified to practice law in this state or did willfully pretend to be, or willfully took or used any name, title, addition, or description implying that he was qualified, or recognized by law as qualified to act as a lawyer in this state in violation of 454.23 Florida Statutes.

STATE OF FLORIDA:
COUNTY OF DADE:

Personally appeared before me, MICHAEL RAMAGE, Assistant State Attorney for the Eleventh Judicial Circuit of Florida, who, being first duly sworn, says that this prosecution is instituted in good faith and certifies that the State Attorney of the Eleventh Judicial Circuit of Florida has received testimony under oath from the material witness or witnesses for the offense, and the allegations as

set forth in the foregoing Information, if true, would constitute the offense therein charged.

S/ Michael Ramage

Assistant State Attorney
Eleventh Judicial Circuit
of Florida

Sworn to and subscribed before me this 25th day of August, 1982.

Richard P. Brinker, Clerk
Circuit Court of the Eleventh
Judicial Circuit of Florida, in
and for Dade County

By S/

APPENDIX E
in the
Supreme Court
of Florida

MONDAY, JULY 12, 1982

THE FLORIDA BAR,

Petitioner,

vs.

RAMIRO ARANGO,

Respondent.

_____/

RULE TO SHOW CAUSE AND ORDER APPOINTING REFEREE

CASE NO. 62,075

The Florida Bar has filed its Petition Against Unauthorized Practice of Law charging that respondent, Ramiro Arango, is engaging in the unauthorized practice of law in the State of Florida, and it alleges that:

I

This petition is filed pursuant to Article XVI of the Integration Rule of The Florida Bar.

II

This Court has original and exclusive jurisdiction to

prohibit the unauthorized practice of law pursuant to Article V, Section 15, of the Florida Constitution.

III

Petitioner is charged with the duty and responsibility of initiating and prosecuting, in this Court, proceedings against the unauthorized practice of law.

IV

Article II, Section 2, of the Integration Rule of The Florida Bar provides in part that "No person shall engage in any way in the practice of law in this state unless such person is an active member of The Florida Bar in good standing. . . ."

V

The Board of Governors of The Florida Bar has authorized the institution of this proceeding against respondent.

VI

Respondent, at all times material herein, was not and is not a member of The Florida Bar, and was not and is not therefore licensed to engage in the practice of law in the State of Florida.

VII

Respondent has engaged in the unauthorized practice of law in Dade County, Florida by one or more of the following acts:

1. Respondent's office is located at 154 Giralda Avenue, Coral Gables. The building at that address is owned by Gara Office, Inc., a company which is in turn owned by respondent.

2. The building has approximately seven internal offices, some of which respondent has made available to members of The Florida Bar. Respondent has provided both secretarial and library services to certain of these attorneys. Some, but not necessarily all of the attorneys who have utilized respondent's office space are: Rollo Karkeet, Blas E. Padrino, Leonardo P. Mendez, John W. Parente, and Jose R. Sierra.

3. On June 10, 1981, 154 Giralda Avenue was found to have a sign on the door which identified the building as GARA OFFICES and which further stated LAW OFFICES and listed the names of Mary Louise Dennis and Jerome Rosenblatt who are both members of The Florida Bar. Inside, the office had a large reception area and a law library. Respondent has the largest individual office on the premises, and prominently displays several diplomas on his wall including one from the University of Florida special program for former Cuban lawyers. Respondent has taken the Florida Bar Examination a number of times, but so far has not been admitted to the practice of law by this Court.

4. Respondent is well known among the Latin community in the Miami area. In recent years he has appeared on Miami area television and on at least one occasion was identified by words on the screen as "Dr. Ramiro Arango, Abogado". Note: *Abogado* in Spanish means Attorney. In addition, he has been heard on a Miami area radio talk show during which he gave advice to callers regarding various subjects, including immigration matters. See Petition Against Unauthorized Practice of Law, *The Florida Bar v. Ramiro Arango;* Petition denied by the Florida Supreme Court, July 9, 1980, case number 59,166.

5. In March, 1977, attorney Blas E. Padrino occupied

an office at 154 Giralda Avenue and established a relationship for the practice of law with the Law Office of Rollo E. Karkeet. Although Mr. Karkeet lived in Hernando County, Florida he maintained an address for practicing law at 154 Giralda Avenue. Respondent ostensibly served as Mr. Karkeet's office manager or clerk.

6. During the tenure of Mr. Padrino's relationship with the Law Office of Rollo E. Karkeet, from March 1977 to March 1978, respondent referred approximately 200 clients to Mr. Padrino for legal services.

7. Respondent prepared and filed a complaint in small claims court, but affixed Blas Padrino's name to the instrument without Padrino's knowledge or consent.

8. Respondent impersonated attorney Padrino during a telephone call respondent conducted with an insurance adjuster.

9. Respondent demanded access to Mr. Padrino's files, including client files who had employed Padrino apart from Padrino's relationship with Karkeet/respondent.

10. Mr. Padrino provided legal services in a civil automobile accident case for a client referred to him by respondent. Padrino discovered that the client, on respondent's advice, had falsely testified during a prior deposition that she had not had any previous automobile accidents.

11. Elisa R. Tamayo, a citizen of the U.S., employed respondent to assist Jose H. Tamayo, her husband, a citizen of Columbia, with the issuance of an immigrant visa. Ms. Tamayo paid respondent a retainer for his services. Elisa Tamayo reasonably believed respondent to be a licensed Florida attorney based on his demeanor and office arrange-

ments. Accordingly, she and her husband reposed trust and confidence in respondent to their detriment since Jose Tamayo has been deported, thus damaging the Tamayos.

12. In October 1979, respondent prepared a contract for the sale of four (4) shares of Maraca, Inc. from Mr. Moises Marcel Ouizman, the seller, to Ms. Camille Castro, the buyer. The contract states that the price of the shares was $166,667.00. The contract also memorialized the agreement between the parties that Ms. Castro would manage a restaurant/night club owned by Maraca, Inc.

13. Subsequent to this agreement, Ms. Castro and her business partner, Magdelina Sera, moved from Las Vegas, Nevada, to Miami. After arriving in Miami, Ms. Castro and Ms. Sera purchased a residence. Respondent prepared the contract for sale to transfer the residence from the seller to the buyer.

14. Because of certain representations of the respondent, Ms. Castro returned her shares of Maraca, Inc. to respondent and did not ever manage the restaurant/night club even though she had relocated from Las Vegas to Miami. Ms. Castro has been injured by the services rendered by respondent, which services she would not have accepted had she not been under the reasonable, but mistaken, belief that respondent was a member of The Florida Bar.

15. Respondent prepared a contract for the purchase of real property, identified as the Sensation Night Club, 3622 Coral Way, Miami, between Maca Corporation, seller, and Moises Marcel Ouizman and/or Assignees, buyer. The contract, with a purchase price of $950,000, is one page long. Later, Moises Marcel Ouizman assigned his contract rights to purchase the Sensation to Maraca Corporation. Maraca

subsequently purchased the property and closed on October 29, 1979. Respondent represented the buyer/assignee throughout his transaction. By March of 1980, the buyer had experience problems with the roof at the premises.

16. Although the contract called for the seller to give the buyer a roof guarantee, no written guarantee was tendered and respondent did not insist on receiving one prior to closing. The buyer ultimately closed the sale without the written guarantee. This resulted in injury to the buyer due to roofing problems which later arose. The April 1980 and May 1980 mortgage payments were not made by Maraca Corporation and the mortgagee filed a foreclosure action in June 1980.

17. In or about January 1982, Daisy Alvarez visited respondent's office at 154 Giralda Avenue. She employed respondent to prepare the Articles of Incorporation for Anyway Realty Corporation. Ms. Alvarez paid respondent $100.00 to prepare and file the articles. Respondent performed this legal service.

VIII

The aforementioned activities of respondent violate the letter and spirit of this Court's decisions in *The Florida Bar v. Town,* 174 So.2d 395 (Fl. 1965), *The Florida Bar v. Fuentes,* 190 So.2d 748 (Fl. 1966), *State ex rel The Florida Bar v. Sperry,* 140 So.2d 587 (Fl. 1962), judgment vacated on other grounds, 373 U.S. 379 (1963).

The Petition Against Unauthorized Practice of Law is granted and Circuit Judge Robert P. Kaye is hereby appointed as referee. Respondent, Ramiro Arango, shall appear before Judge Kaye to show cause why he should not

be held in contempt of this Court for the unauthorized practice of law. As referee, Judge Kaye is authorized to determine the time and place of the hearing, to hold such hearings, and to take such testimony as may be necessary to the establishment of the facts involved and promptly report his findings to this Court.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

C

cc: Hon. Bobby L. Jones,
Sheriff, for service
Hon. Robert P. Kaye,
Judge
Ronald R. Richmond,
Esquire
Catherine Dickson,
Esquire
H. Glenn Boggs,
Esquire

APPENDIX F

INTEGRATION RULE

Article II. Membership

Section 2. No person shall engage in any way in the practice of law in this state unless such person is an active member of The Florida Bar in good standing except that a practicing attorney of another state, in good standing, who has professional business in a court of record of this state may, upon motion, be permitted to practice for the purpose of such business upon such conditions as the court deems appropriate under the circumstances of the case.